

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Ricky W. Purcell Art Unit 1611
Serial No. 10/645,447
Filed August 20, 2003
Confirmation No.: 7982
For: SYSTEM FOR PROVIDING THERAPY TO A PORTION OF A BODY
Examiner Isis A.D. Ghali

May 28, 2009

TERMINAL DISCLAIMER TO OBLIGATE PROVISIONAL
DOUBLE PATENTING REJECTION OVER CO-PENDING APPLICATION

TO THE COMMISSIONER FOR PATENTS,

SIR:

The owner, Kimberly-Clark Worldwide, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of co-pending Application No. 10/954,764.¹ The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the co-pending application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

¹ Applicants note that the Board of Patent Appeals and Interferences decision cites the co-pending application in question as number 10/954,754; however, this application is related to completely different art and, further, is not owned by Kimberly-Clark Worldwide, Inc. The correct serial number for the co-pending application which is the basis for the double patenting rejection is application serial number 10/954,764.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the co-pending application, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Further, Applicant notes that this Terminal Disclaimer is being submitted pursuant to the conversation that took place on April 28, 2009 between Mr. Jim Heinen, Jr. (Registration Number 62,758; Agent for Applicant's representative, Mr. Christopher M. Goff) and Supervisory Patent Examiner Sharmila Gollamundi Landau. Specifically, Examiner Landau informed Mr. Heinen that as the only remaining rejection to the application was an obviousness-type double patenting rejection, that if Applicant filed a Terminal Disclaimer within two months of the date of the Board of Patent Appeals and Interferences decision, that the Office would issue a Notice of Allowance. Accordingly, Applicant respectfully requests that upon entrance of this Terminal Disclaimer, that the Office issue a Notice of Allowance for Application number 10/645,447.

Check either box 1 or 2 below, if appropriate.

1. For submission on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of organization

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney of record.

May 28, 2009
Date

/Christopher M. Goff/
Signature

Christopher M. Goff
Typed or Printed Name

The Commissioner is hereby authorized to charge the Terminal Disclaimer fee under 37 CFR 1.20(d) and any underpayment to Deposit Account No. 01-2384.

PTO suggested wording for terminal disclaimer was

unchanged

changed

Fee not included, should be charged to Deposit Account No. 01-2384.